THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.7310 of 2007

Date: 16.04.2007

Between:

M.Aswin Kumar and another.

....Petitioners

And

Govt. of Andhra Pradesh and others.

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.7310 of 2007

O R D E R:

The petitioners claim to be the members of Vasavi Co-operative Housing Society. They were allotted and transferred two plots, through sale deeds executed in the year 2001. They intended to sell the plots to others. Their grievance is that the third respondent is not receiving the documents for registration, on the basis of a notification issued by the Government of Andhra Pradesh in G.O.Ms.No.280, dated 09.03.2005, under Section 22-A of the Registration Act, 1908 (for short 'the Act'). They seek a consequential direction to respondents 2 and 3 to receive the documents and process them, in accordance with law.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

The land in Survey No.160 of Bachupally Village, Qutubullapur Mandal, Ranga Reddy District was assigned

in favour of an ex-serviceman, by name Sri Narayana, through proceedings dated 30.10.1967, by the then Tahsildar, Medchal. Subsequently, Narayana sold the said land in favour of one Mr.Gnaneshwar, through document No.1617 of 1998. Vasavi Cooperative Housing Society purchased this land from Gnaneshwar, through a sale deed, dated 21.03.1998. After obtaining approval for lay out from the Hyderabad Urban Development Authority, the Society divided the same into plots and allotted two of them to the petitioners. The first respondent issued the impugned notification in respect of the land in Survey No.160 of Bachupally Village and various other lands situated in different Villages, in exercise of power under Section 22-A of the Act.

Whatever may have been the circumstances, under which the G.O. was issued and the validity thereof till recently, in view of the Judgment, dated 07.12.2005, passed by a Division Bench of this Court in W.P.No.14099 of 2003 & batch *(K. RAMA DEVI V. PRINCIPAL SECRETARY, REVENUE DEPARTMENT, HYDERABAD)*, the G.O. can no longer be held valid. Section 22-A of the Act has been held to be *ultra vires.*

Notwithstanding the Judgment of this Court, setting aside Section 22-A of the Act, if the plots of the petitioners

partook the character of assigned land, the prohibition contained under Section 5 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 would have operated. Even that impediment does not exist in the present case. The reason is that the land was assigned in favour of an ex-serviceman and through its order, dated 11.11.1993, in G.O.Ms.No.1117, the Government permitted the sale of such land, by imposing a condition that the sale must not take place within ten years from the date of assignment. In the instant case, the sale took place 31 years subsequent to the date of assignment. Therefore, respondents 2 and 3 cannot refuse to receive or process the documents presented by the petitioners.

For the foregoing reasons, the Writ petition is allowed, as prayed for. There shall be no order as to costs.

16.04.2007

JSU